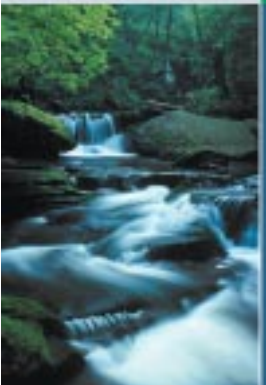


## How to Make the Debt Collector Do What You Want



When you are in debt, sometimes you may feel that you are a “sitting duck” waiting for the debt collector to call. What you may not realize, however, is that there are laws which protect debtors from collection practices that you may find troublesome or harassing.

► Myvesta is a nonprofit consumer education organization. We provide a wide range of educational materials to assist those in financial need. Visit us on the Web at [Myvesta.org](http://Myvesta.org).



The federal Fair Debt Collections Practices Act (hereafter referred to as “FDCPA”) and other consumer protection laws are written to help consumers.

The laws assume that you did not get into debt because you are a deadbeat trying to get something for nothing. You fully planned to pay until unforeseen circumstances, such as a job layoff or illness, made it difficult for you to pay your bills. Therefore, the FDCPA limits how far the debt collector may go in trying to collect a debt from you. In fact, you should know that under the FDCPA, a debt collector may not act in ways that harass or abuse any person while trying to collect a debt.

**Under the FDCPA, a debt collector may not act in ways that harass or abuse any person while trying to collect a debt.**

the debt and that the agency will send you verification that you owe the debt if you dispute it. A demand for payment will usually be included and sometimes a threat that if payment is not received immediately, the debt will be reported as delinquent or that the collector may take legal action against you.

### Communications between the debtor and the collector

Once the debt collector reaches you by telephone, he must tell you that the call is for the purpose of collecting a debt and that information provided by you will be used for debt collection purposes.

The law requires that the collector identify that he is calling from a collection agency.

## Who Has to Follow the FDCPA?

People who you owe money to, called original creditors, do not have to follow the rules of the FDCPA. The FDCPA applies only to collection agencies (agencies creditors turn accounts over to), creditors collecting for another person, repossession companies, companies that buy debts after the debtor fails to pay or attorneys hired to collect a debt. But this does not mean original creditors may treat you however they wish. If you feel you are being harassed by an original creditor, you can bring a lawsuit against the creditor for harassment. In addition, the laws of your state may give you protection from abusive collector and creditor practices.

## What Rules Does the Debt Collector Have to Follow When Trying to Collect the Debt?

The collector has to let you know the amount of the debt, the name of the original creditor, that you have 30 days to dispute that you owe

An agency trying to collect a debt from you may not give you false information to get you to pay. For instance, the collector may not send a letter threatening to sue when he does not intend to sue you, or at least not as soon as he made it sound in the letter. Courts have held that a collector demanding payment in five days and describing steps to a lawsuit misleads the consumer into thinking that a lawsuit will be filed in five days. Likewise, a letter from a creditor identified as a “72-hour notice” threatening legal action within 72 hours is deceptive if they are not going to sue you in 72 hours.

Statements by the collector that he will take your property or garnish your wages sooner than is permitted by law is also considered a deceptive practice. (In most states, property cannot be attached or wages may not be garnished until a judgment has been rendered.) Similarly, threats of arrest or imprisonment are prohibited if the collector does not plan to follow through or if the action is illegal.

While debtors may not be put in jail or arrested for owing the majority of debts, arrests and

imprisonment could result from failure to pay child support in most states.

The collector may not send you a letter that looks like it is from an attorney or the court when it's not, or claim to be an attorney on the telephone. If you receive a letter marked "final notice" from the collector, the collector may not write to you again asking for payment. The collector may not use a false business name, nor claim to be calling from a credit reporting agency (unless the collection agency he works for is also a credit reporting agency). You should be wary of a collector who tries to claim that he is a representative of the government or police. Statements such as these are probably not true.

**If you receive a letter marked "final notice" from the collector, the collector may not write to you again asking for payment.**

**Calls between 9 p.m. and 8 a.m., or on Sundays, are considered to be made at an unusual or inconvenient time.**

The debt collector may not communicate with you, including personal visits or telephone calls, at an unusual or inconvenient time. Calls between 9 p.m. and 8 a.m., or on Sundays, are considered to be made at an unusual or inconvenient time. Likewise, the debt collector can't contact

you at an unusual place, such as a neighbor's home or hospital.

Telephone calls made to you at work by the collector are prohibited if he has reason to know that your employer does not allow personal telephone calls. You have the right to tell him not to contact you during the time you are at work because that is an inconvenient time for you to be called.

### Communications Between the Debt Collector and Third Parties

The debt collector should not call your friends, co-workers, employer or relatives to let them know you owe a debt, without first getting your permission. You have the right to keep this information confidential. This means that the collector may not tell the person who answers the telephone the collection agency's name, unless specifically asked, or state that you owe a debt.

But if the reason the collector is calling is for the third party's help in locating you, the call is allowed. The collector may contact your attorney, your spouse and any co-debtor to discuss your debt.

If the collector sends you mail, the envelope may not show any words, including logo or letterhead, that would let a third party know that the letter is from a collector regarding a debt that you owe. In the same way, a collector may not send you a postcard.

Under the FDCPA, a collector may not demand payment by threatening the consumer, such as a threat to harm the consumer's credit and business reputation. Nor can the collector make such statements as:

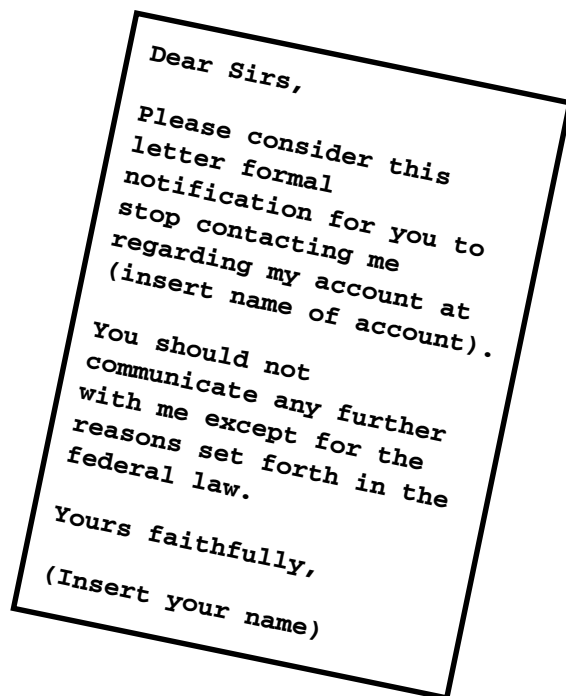
- ▶ "If you can't pay the hospital bill, you should not have had children."
- ▶ "If you think what we have been writing is unpleasant, wait and see what happens if you keep avoiding us!"
- ▶ or send a letter written in bold print stating, "48 Hour Notice - Warning - Pay This Amount," which a consumer could think of as a threat.

Use of insulting, discriminatory or belittling language such as "liar," "deadbeat," or "crook" is not permitted under the Act, including statements that the consumer is financially irresponsible. The collector may not use obscene or profane language, let the telephone ring over and over or call you repeatedly.

## How Do I Get the Debt Collector to Stop Calling Me?

The FDCPA gives you the power to stop the debt collector from contacting you. If you want the debt collector to stop calling, you must notify the collector in writing that you want him to stop communicating with you. Once you send a letter, the collector has to stop contacting you except to advise you that he is no longer going to try to collect on the debt or to let you know that the collector or creditor plans to take further action against you permissible by law, such as suing you. The debt collector cannot contact you to ask for payment after you tell him not to in writing.

It is a good idea to send a written request by certified mail, return receipt requested or some other signature required traceable means. By doing so, you know that the debt collector received your request and the collector could never argue that he was not aware you wanted the communication to stop. A sample letter appears below.



Dear Sirs,  
Please consider this letter formal notification for you to stop contacting me regarding my account at (insert name of account).  
You should not communicate any further with me except for the reasons set forth in the federal law.  
Yours faithfully,  
(Insert your name)

While it might be relief to have the collection calls stop, you should think carefully before telling this to a collector. By stopping the lines of communication, some collectors feel they are left with no other choice than to sue you since they can't negotiate with you anymore.

Additionally, you may not have immediate notice of actions that the collector may have taken. For instance, if the collector decides to sue you, the first notice you may receive of the lawsuit could be a document from the court. The collector may also decide to sell the debt, without you knowing and you may have difficulty in trying to work out payment arrangements with the new owner of the debt.

Eventually, you should get notice that the debt has been sold, but there may be a time period during which you do not know with whom to negotiate with. You may find it more helpful to limit the amount of contact the collector has with you by telling him not to call you at work, for example, rather than stopping all contact with the collector.

## What Do I Do If the Debt Collector Violates the Law?

If you feel the debt collector has acted illegally, you can register a letter of complaint with the Federal Trade Commission ([www.ftc.gov](http://www.ftc.gov)) or complain to your state consumer protection agency.

You may try to get the collector to repeat what he said on the telephone, with witnesses listening. In your letter of complaint, state the date and times the unlawful message was said. Attach the names of the witnesses who heard the message and the dates and times they heard it. You will probably want to send a copy of the complaint to the original creditor and the collector.

You also have the right to sue a collection agency for harassment. You would have the

greatest chance of winning such a lawsuit if you have documentation of the illegal practice. Without proper evidence or documentation, it is doubtful that a judge would find that the collection agency engaged in an illegal practice.

But rather than trying to catch the collector on a technical violation of the law, it is always best to focus on negotiating a satisfactory repayment schedule if the debt is valid.

Finally, it is important to remember that you are no less of a person because you owe a debt. No one has the right to make you feel as if you are not a worthwhile person. The intent of the FDCPA is to protect your dignity.

## About Myvesta...

Myvesta<sup>sm</sup> is dedicated to helping people create healthy financial lives. The organization provides a wide range of materials to inspire and inform people so they can break down their barriers to financial and personal success. For more information visit [Myvesta.org](http://Myvesta.org) online.

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